

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FREDDIE C. BATCHELOR,)	
)	
Plaintiff,)	
)	
v.)	No. 08 C 1658
)	
UNITED STATES DEP'T OF HOUSING &)	
URBAN DEVELOPMENT SECRETARY,)	Judge Kennelly
ALFONZO JACKSON,)	
)	
Defendant.)	

REPLY IN SUPPORT OF DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Freddie C. Batchelor a former employee of the Department of Housing and Urban Development ("HUD"), filed a rambling and largely incomprehensible, 34-page, *pro se* complaint against HUD Secretary Alfonzo Jackson, alleging that two HUD employees — Gregory Gustin and James Pollock — discriminated against her in various ways in February, March, and April 2004. *See generally* Complaint. HUD moved for summary judgment because Batchelor waited more than two years after receiving the agency's 2006 decision on Batchelor's 2004 administrative claim of discrimination to file suit in federal court, and a discrimination suit against the federal government must be filed within 90 days of the plaintiff's receipt of the final agency decision. 42 U.S.C. § 2000e-16(c); *Irwin v. Dept. Of Veteran's Affairs*, 498 U.S. 89, 94 (1990)(there must be "strict compliance" with the requirements of § 2000e-16(c) as a "necessary predicate" to an employment discrimination suit); *Elmore v. Henderson*, 227 F.3d 1009, 1012 (7th Cir. 2000)(failure to file a discrimination complaint within 90 days of the plaintiff's receipt of the agency's final decision is fatal to the plaintiff's claims).

Batchelor filed another rambling and largely incomprehensible document in response to Jackson's motion for summary judgment. Batchelor stated without evidentiary support that she did not receive the agency's 2006 final decision until the fall of 2007. Response at 3. However, according to the United States Postal Service, the 2006 agency decision was delivered at 5:07 p.m. on January 25, 2006, and was signed for by F. Batchelor. Exhibit B. No reasonable jury could find in favor of Batchelor on this issue, so summary judgment should be entered in favor of Jackson.

Batchelor also argued in her response to the motion for summary judgment that she intended to file her civil action against the Secretary of HUD under various criminal statutes, the False Claims Act, and the Civil Service Reform Act, and she intends to "submit[] an amended complaint specifying all of the above violations with the facts and other regulations pertaining to the malicious and unfair treatment [she] received from 1992 through 2004" and beyond. Response at 13-15. Batchelor's intentions are irrelevant to whether summary judgment should be entered on the complaint presently before the court, because a "plaintiff cannot cure [a] deficiency [in her complaint] by inserting the missing allegations in a document that is not either a complaint or an amendment to a complaint." *Harrell v. United States*, 13 F.3d 232, 236 (7th Cir. 1993). Therefore, summary judgment should be entered in favor of HUD.

Respectfully submitted,

PATRICK J. FITZGERALD
United States Attorney

By: s/ Gina E. Brock
GINA E. BROCK
Assistant United States Attorney
219 South Dearborn Street
Chicago, Illinois 60604
(312) 353-7919
gina.brock@usdoj.gov

Exhibit B

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Page 1 of 1

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